

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Decker Investments, Inc.,
Petitioner-Appellant,

v.

Plymouth County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 10-75-0282
Parcel No. 12-20-176-002

On July 8, 2011, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Decker Investments, Inc. requested the appeal be considered without hearing. It was self-represented. The Board of Review designated County Attorney Darin Raymond as its legal representative. The Appeal Board now having examined the entire record and being fully advised, finds:

Findings of Fact

Decker Investments, Inc. (Decker), owner of property located at 1443 Industrial Road SW, Le Mars, Iowa, appeals from the Plymouth County Board of Review decision reassessing its property. The property is operated as a truck shop and main office building. According to the property record card, the subject property consists of a metal steel-frame shop having 10,625 square feet of gross building area in normal condition, built in 1997, and graded 4+00. It is adjusted 26% for physical depreciation, 10% for functional obsolescence, and 10% for economic obsolescence. The parcel also consists of a wood-frame, office building having 1920 square feet of gross building area, in normal condition, built in 1990 and added onto in 1998, and graded 4-10. It is adjusted 20% for physical depreciation, 10% for functional obsolescence, and 10% for economic obsolescence. The property was

improved by 3400 square feet of concrete paving in 1999, which has 20% physical depreciation. The improvements are situated on a 3.8 acre site.

The real estate was classified as commercial on the initial assessment of January 1, 2010, and valued at \$637,790, representing \$190,000 in land value and \$447,790 in improvement value. This was a change from the 2009 assessment

Decker protested to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). The Board granted the protest, in part, and reduced the assessment to \$609,790, allocated \$162,000 to land value and \$447,790 to improvement value.

Decker then filed its appeal with this Board asserting the same ground. It claims \$530,000, allocated \$85,000 to land value and \$445,000 to improvement value, is a fair assessment for the property.

Decker submitted an appraisal by John Wedebrand of Vander Werff & Associates, Inc. in Sanborn. The appraisal was commissioned for appeal of the property tax assessment. It included three tracts of land in an industrial park in southwest Le Mars: the subject property and two others owned by Quality Truck Wash. Each tract was separately valued by the appraiser as of April 23, 2010. The appraisal includes a sales approach and income approach.

Seven land sales from the same Le Mars industrial site as the subject property were used to arrive at land value. The sales were rather dated with four from 2007, two from 2005, and one from 2004. Unadjusted sale prices ranged from \$69,000 to \$255,000. The parcel sizes ranged from 147,250 to 476,784 square feet. The land price per square foot ranged from \$0.37 to \$0.63 per square foot. No adjustments were made to the sale prices. Wedebrand estimated a market value range for the subject property's land value from \$61,245 to \$104,614 based on these prices per square foot. He determined a midpoint of \$82,930 and a mean value of \$82,291. His final conclusion of land value was \$85,000.

Although he appears to have considered time of sale, zoning, improvements, utilities, location, size and topography, no adjustments were made to the sale prices. Without any explanation, it seems unreasonable that no adjustments were necessary to any of the sales, especially when site sizes range from two to three times larger than the subject property. However, we note he used a price per square foot that was higher than the properties of comparable sales and slightly higher than the newer sales.

Six sales in Le Mars, Estherville, Clear Lake, and Charles City were used to value the property as improved. One occurred in 2005, three in 2008, one in 2009, and one in 2010. Unadjusted sale prices ranged from \$376,000 to \$715,000, or \$27.85 to \$69.44 per square foot. The sales were adjusted for quality, condition, basement finish, improvements, and site. Adjusted prices ranged from \$34.72 to \$48.19 per square foot. Based on his adjusted values, Wedebrand recommended a market value range of \$435,562 to \$604,544 for the property as improved. He concluded a value of \$530,000 based on a price per square foot of \$42.25

Wedebrand also developed the income approach to value using a fair market rent of \$6.50, a 4% management fee, a 6% vacancy rate, and replacement reserves to arrive at a net annual operating income of \$44,985. Applying a 9% capitalization rate, he arrived at a \$500,000 value.

Considering both the sales and income approaches, Wedebrand estimated a final value of \$530,000, representing \$85,000 in land value and \$445,000 in improvement value.

Assessor Robert Heyderhoff, on behalf of the Board of Review, submitted a letter to this Board indicating the land sales used in the Wedebrand appraisal were sold by Le Mars Business Initiative Corporation, which he claims is a private-public organization that promotes economic development without a profit motive. Wedebrand's appraisal listed the seller of these properties as LBI. We decline to rely solely on Heyderhoff's statement, however, because no information was provided about this organization to support it and the appraiser did not indicate these sales were abnormal or not reflective

of market value land sales. Furthermore, the information indicates the entity is only part public, which would not per se invalidate sales by or from it, as a portion of it is also private.

Heyderhoff also indicated his belief that the land sales used in the appraisal are dated, with three being over five years old. We note that most of the land sales provided by the assessor also have a wide range of dates, in fact two are from 2005, one from 2007, and two others actually occurred after the 2010 assessment date. Heyderhoff's sales also had higher purchase prices. In his opinion, the land sales he chose would support \$40,000 per unimproved acre and \$50,000 per acre for improved sites. He provided no information on the seller of these properties or the supporting sales data. We do note, the subject property is currently assessed at \$42,631 per acre, which is within Heyderhoff's opinion range.

One difficulty with this appeal is that it was a written consideration. Because of this, some of the apparent issues are not fully explained. For example, Wedebrand is unable to further explain to us why no adjustment to comparable sale sites were necessary. Additionally, there is limited information for us to begin to determine the sales' reliability as arm's length transactions. We note, however, the appraisal notes the area is relatively small and rural. This fact may have been support for his reason not to adjust the land sales, especially considering they are all located in the subject property's development. The information provided by the Board of Review leaves us with similar questions; in fact, that information was lacking even more detail than the appraisal even though the Board of Review had no burden in this case.

Ultimately, we find that while there are some flaws with Wedebrand's appraisal, it supports the claim that the property as a whole is over assessed. The site valuation in the appraisal, in particular, supports this claim. The comparable sales approach of the improved property, as well as the valuation arrived at by the income approach, also lead to the conclusion the property is over assessed.

Wedebrand's value opinion of \$530,000 is the best evidence of the fair market value of the subject property as a whole as of January 1, 2010.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a). "To determine whether other properties are sufficiently comparable to be used as a basis for ascertaining market value under the comparable-sales approach, [the Supreme Court] has adopted the rule that the conditions with respect to the other land must be 'similar' to the property being assessed." *Soifer v. Floyd County Bd. of Review*, 759 N.W.2d 775, 783 (Iowa 2009). "Similar does not mean

identical, but having a resemblance; and property may be similar . . . though each possess various points of difference.” *Id.* Determining comparability of properties is left to the “sound discretion” of the trier of fact. *Id.* Consideration should be given to size, use, location, and character, as well as the nature and timing of the sale. *Id.* This Board is “free to give no weight to proffered evidence of comparable sales which it finds not to be reflective of market value” *Heritage Cablevision*, 457 N.W.2d at 598.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Findings are “based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs.” Iowa Code § 17A.12. Viewing the record as a whole, we determine the preponderance of the evidence supports Decker’s claim of over-assessment. The Wedebrand appraisal is the best evidence of the subject property’s fair market value as of January 1, 2010.

Therefore, we modify the Decker property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2010, is \$530,000, allocated \$85,000 to land value and \$445,000 to improvement value.

THE APPEAL BOARD ORDERS that the January 1, 2010, assessment as determined by the Plymouth County Board of Review is modified as set forth herein.

Dated this 14 day of September 2011.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer

Karen Oberman
Karen Oberman, Board Member

Richard Stradley
Richard Stradley, Board Chair

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>9-14</u> , 20 <u>11</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	<u>[Signature]</u>